

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Revision of the Commission's Rules to)	CC Docket 94-102
Ensure Compatibility with Enhanced 911)	
Emergency Calling Systems)	
)	
Petition of Nextel Partners, Inc. for Limited)	WT Docket 05-302
Waiver of GPS Handset Penetration Rule)	

**COMMENTS OF CENTENNIAL COMMUNICATIONS CORP.
ON NEXTEL PARTNERS, INC.'S PETITION FOR LIMITED WAIVER**

Centennial Communications Corp. ("Centennial"), by its attorneys, hereby submits its comments in support of the above-captioned Petition of Nextel Partners, Inc. ("Nextel Partners") for Limited Waiver ("Petition"),¹ in response to the Wireless Telecommunications Bureau's Public Notice of October 21, 2005.² Nextel Partners seeks a limited waiver or extension of the GPS handset penetration rule at 47 C.F.R. § 20.18(g)(i)(v). As discussed more fully below, the Petition amply demonstrates good cause for the relief sought, outlines a clear path to full compliance by the carrier, and shows that grant of the Petition is consistent with the Commission's Phase II E911 implementation plan and will ultimately serve the public interest.

¹ Petition for Limited Waiver of Nextel Partners, Inc., CC Dkt. No. 94-102 (Oct. 17, 2005) ("Nextel Partners' Petition").

² Public Notice, DA 05-2761 (Oct. 21, 2005).

I. Background of Centennial

Through five different subsidiaries,³ Centennial holds licenses to provide digital cellular and PCS service in 33 markets in the Midwest and Southern United States. Centennial provides cellular service in the following six states: Indiana, Louisiana, Michigan, Mississippi, Ohio and Texas. In addition, Centennial Puerto Rico License Corp., a subsidiary of Centennial, holds the B block broadband PCS license for MTA 25 – Puerto Rico/US Virgin Islands.

On November 3, 2005, Centennial submitted a Request for Limited Waiver/Extension of Location-Capable Handset Deadline on behalf of a subsidiary, Centennial Puerto Rico License Corp. In its Request, Centennial seeks a one-year extension of the 95% handset penetration deadline imposed by 47 C.F.R. § 20.18(g)(i)(v), until December 31, 2006, with respect to Centennial's operations in Puerto Rico.

II. Waiver Standard

Under Section 1.3 of the Rules, the relevant sections of Title 47 “may be suspended, revoked, amended, or waived *for good cause shown*, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter.”⁴ Additionally, Rule 1.925 regarding wireless telecommunications services, specifically, allows the grant of waiver requests if:

(i) [t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; *or*

(ii) [i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.”⁵

³ Bauce Communications of Beaumont, Inc., Centennial Michiana License Company LLC, Centennial Southeast License Company LLC, Elkhart Metronet, Inc. and Lafayette Cellular Telephone Company.

⁴ 47 C.F.R. § 1.3 (emphasis added).

⁵ 47 C.F.R. § 1.925(b)(3) (emphasis added).

Citing Rule 1.3, the Commission has noted that “[i]n the case of E911,” there may be instances where “technology-related issues or exceptional circumstances may mean that deployment of Phase II” would not be possible by a deadline, prompting individual waiver requests.⁶ In those circumstances, E911 waiver requests should be “specific, focused and limited in scope,” with a “clear path to full compliance” with the rule at issue.⁷ “If deployment is scheduled but for some reason must be delayed, the carrier should specify the reason for the delay and provide a revised schedule.”⁸ Moreover, “[i]f a carrier’s preferred location solution is not available or will not fully satisfy the rules, . . . the carrier would be expected to implement another solution that does comply with the rules.”⁹

III. Petitioner Demonstrates Good Cause for Granting a Limited Waiver

As the Commission is aware, an unexpected software glitch by Motorola in July 2004 had immediate and unanticipated consequences on the deployment and activation of GPS-capable handsets by the Nextel entities.¹⁰ Absent the glitch, Nextel Partners reports that it was on track to achieve 85% penetration by the December 31, 2005 deadline, but as a result, now anticipates reaching only 74.2%.¹¹ Technical problems of this nature only underscore that the 95% penetration deadline is dependent on factors outside of carriers’ control, and that despite their best efforts, many carriers will be unable to meet the requirement by year-end.

The ability of carriers to meet that requirement also turns on the willingness of individual customers to replace their existing handsets. Nextel Partners reports that it has made

6 *Fourth Memorandum Opinion and Order*, ¶ 43.

7 *Id.* at ¶ 44.

8 *Id.*

9 *Id.*

¹⁰ Nextel Partners’ Petition at 14-15, 19-22.

¹¹ *Id.* at 15.

considerable promotional efforts to persuade its customers to switch to GPS-capable handsets.¹² However, the evidence shows that customers of Nextel Partners, like subscribers of many other wireless carriers that have implemented handset-based E911 solutions, are not replacing their existing handsets in large numbers, even when upgrades are offered to them at no cost.¹³

Centennial agrees with Nextel Partners that, based on the evidence put forth in this and other Petitions, the Commission should consider adoption of a more realistic timetable for achieving 95% penetration of GPS-capable phones. In the alternative, Centennial agrees that Nextel Partners' request for a limited extension of the December 31, 2005 deadline to June December 31, 2007 to allow it to fully comply is specific and limited in scope, supported by good cause as shown in the Petition, and is intended to bring about full compliance with the 95% penetration requirement as soon as feasible.

IV. Petitioner Outlines a Clear Path to Full Compliance

Nextel Partners has demonstrated, through compliance with FCC rules and policy, its commitment to making E911 a reality in its service areas. As the carrier details in its Petition, it has met *all* of the Commission's interim deadlines set forth in the Nextel Waiver Order,¹⁴ with respect to the roll-out of E911 handsets.¹⁵ Moreover, Nextel Partners' considerable promotional efforts appear targeted at ensuring that it can reach the 95% penetration requirement as

¹² *Id.* at 17-18, 22-23.

¹³ *Id.* at 14.

¹⁴ See In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Wireless E911 Phase II Implementation Plan of Nextel Communications, Inc., *Order*, 16 FCC Rcd. 18277, ¶ 19 (2001) ("Nextel Waiver Order").

¹⁵ Nextel Partners' Petition at 4.

expeditiously as possible, and in any event, by its proposed extended deadline of December 31, 2007.¹⁶

V. Grant of a Limited Waiver Would Serve the Public Interest

Strict enforcement of the December 31, 2005 deadline for 95% penetration would not serve – but would instead countermand – the public interest.¹⁷ The Phase II benchmarks and E911 requirements generally were intended to enable deployment of E911 emergency services to cellular users as quickly as possible through advanced location techniques.

However, as Nextel Partners reported in its Petition, a large number of PSAPs in its service territory are not Phase II capable.¹⁸ Because many of these customers are in communities – or would use E911 services in communities – that are not Phase II ready, the public interest would not be served by forcing many cellular users to replace their handsets before it will serve any appreciable purpose or serve the goal of implementing E911.

CONCLUSION

For the foregoing reasons, Centennial supports the request of Nextel Partners seeking relief from the December 31, 2005 deadline for compliance with 47 C.F.R. § 20.18(g)(1)(v).

Respectfully submitted,

Centennial Communications Corp.

By: /s/ Theresa Z. Cavanaugh
Theresa Zeterberg Cavanaugh
Maria C. Moran

¹⁶ *Id.* at 17-18, 22-23.

¹⁷ In fact, as Nextel Partners noted in its Petition, the 95% requirement – rather than a 100% benchmark – implicitly recognizes that a stringent penetration requirement would not be realistic. *Id.* at 12.

¹⁸ *Id.* at 10-11, 13, 24-25.

COLE, RAYWID & BRAVERMAN, LLP
1919 Pennsylvania Avenue, NW
Second Floor
Washington, DC 20006
(202) 659-9750

November 3, 2005

CERTIFICATE OF SERVICE

I, Julie Gordy, do hereby certify on this 3rd day of November, 2005 that a true and correct copy of the foregoing Request of Centennial Communications Corp. for Limited Waiver / Extension of Location-Capable Handset Penetration Deadline has been sent electronically to each of the individuals identified below.

/s/ Julie Gordy
Julie Gordy

By: ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

By Electronic Mail

Best Copy and Printing, Inc.
Portals II
445 12th Street, SW, Room CY-B402
Washington, DC 20554
fcc@bcpiweb.com

By First Class U.S. Mail, Postage Prepaid

Donald J. Manning, Esq.
Vice President & General Counsel
NEXTEL PARTNERS, INC.
4500 Carillon Point
Kirkland, WA 98033

Laura H. Phillips
Drinker Biddle & Reath, LLP
1500 K Street, NW, Suite 1100
Washington, D.C. 20005-1209

Todd B. Lantor, Esq.
Chief Regulatory Counsel
NEXTEL PARTNERS, INC.
4500 Carillon Point
Kirkland, WA 98033

Jason E. Friedrich
Drinker Biddle & Reath, LLP
1500 K Street, NW, Suite 1100
Washington, DC 20005-1209